

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-089-C - ORDER NO. 96-451
JULY 5, 1996

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IN RE: Application of SCANA Communications,) ORDER
Inc. for a Certificate of Public) GRANTING
Convenience and Necessity to Provide) AUTHORITY
Intrastate Telecommunications Services)
as a Carrier's Carrier and to Provide)
Private Line and Special Access Service.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of SCANA Communications, Inc. (SCANA or the Company) requesting authority to provide intrastate facilities-based interexchange telecommunications services as a carrier's carrier in South Carolina and to provide Private Line and Special Access Services within the territory served by BellSouth Telecommunications, Inc. (BellSouth) within the State of South Carolina. The Application was filed pursuant to S. C. Code Ann. §58-9-280 (1976) as amended, and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed SCANA to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of SCANA's Application and of the manner and time in which to file the

appropriate pleadings for participation in the proceeding. SCANA complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were filed by American Communications Services, Inc. (ACSI) and the Consumer Advocate for the State of South Carolina (the Consumer Advocate). The Stipulation between SCANA and the Consumer Advocate was received into evidence.

A hearing was held on June 27, 1996 at 2:30 p.m. in the Commission's Hearing Room, the Honorable Guy Butler, Vice Chairman, presided. SCANA was represented by Kevin A. Hall, Esquire and Sarena D. Burch, Esquire. ACSI was represented by Russell B. Shetterly, Esquire and James C. Falvey, Esquire (Falvey was admitted pro hac vice). The Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire. The Commission Staff was represented by F. David Butler, General Counsel.

At the beginning of the hearing, Kevin Hall, elected on behalf of the Company to comply with the certification requirements in effect on March 25, 1996, pursuant to the latest amendment to S. C. Code Ann. §58-9-280 (B).

In support of its Application, SCANA presented the testimony of Michael D. Blackwell and Tim M. Jones. Blackwell described SCANA's Application, its corporate structure, its financial, technical, and managerial resources, its current South Carolina network, and the various public benefits that would result from SCANA's services. Blackwell noted SCANA's management has extensive business and technical experience in operating

telecommunications networks. Further, SCANA has owned fiber optic facilities in South Carolina since approximately 1985, and currently has approximately 180 miles of fiber optic line in use in South Carolina. Blackwell notes that SCANA is financially qualified to provide the requested telecommunications services. Blackwell described SCANA's fiber optic network geographically.

Blackwell testified that the availability of Carrier's Carrier Services promotes competition in South Carolina, which ultimately results in lower prices and communications facilities being utilized more efficiently. The Commission recognized in Order No. 85-813 in Docket No. 85-157-C the competition which results from the availability of Carrier's Carrier Services, and the fact that it promotes better services at lower prices for South Carolina consumers.

Blackwell also testified that the availability of Special Access and Private Line Services promotes competition in South Carolina, which benefits consumers. Blackwell noted that the availability of Private Line and Special Access Services promotes route diversity, increased network reliability, enhanced security, network redundancy, price competition, and expanded choices between telecommunications services and providers for South Carolina consumers. Blackwell also noted that access to quality telecommunications infrastructure is becoming a significant factor in businesses' choice of location. As more and more businesses such as data processing firms, telemarketing firms, and financial institutions require high capacity telecommunications networks,

the availability of quality telecommunications infrastructure is an increasingly important consideration in deciding where to physically locate. Thus, the availability of fiber optic facilities for Private Line and Special Access Services in South Carolina has the potential to significantly enhance the State's ability to attract information and communications intensive business ventures to the State.

Blackwell also commented on whether or not existing local exchange carriers' (LECs') communications facilities in South Carolina are adequate to serve the State's consumers. Blackwell believes that they are not. Blackwell states that the emergence of Special Access and Private Line providers in South Carolina, and nationally demonstrates that customers do not find traditional LEC provided services adequate. The very existence of these companies, along with their success, according to Blackwell, makes it clear that existing LEC-provided services are no longer sufficient to today's telecommunications customers. Further, Blackwell notes that the availability of Special Access and Private Line Services do not constitute wasteful duplication. Special Access and Private Line Providers have emerged as a backup to LEC-provided facilities, and as a result have begun to provide the network diversity essential to preventing service outages.

SCANA also presented the testimony of Tim M. Jones. Jones described the public benefits of competition in telecommunications markets. Jones noted that the availability of transmission capacity on a Carrier's Carrier basis, and the availability of

non-LEC provided Private Line and Special Access Services greatly benefits telecommunications consumers in South Carolina. Jones noted that Carrier's Carrier Services provide transmission capacity to carriers of telecommunications services already authorized to do business by this Commission or the FCC. Further, Jones noted that Private Line Service is a non-switched dedicated telecommunications connection between two points. Special Access Service is a type of Private Line Service that is non-switched, dedicated to one customer, and connects a customer's premises to an interexchange carrier's point of presence. Jones stated that in today's world, customers are seeking and finding multiple providers of long distance, Special Access and Private Line Services. Jones noted that business and government agencies depending on telecommunications services cannot function if the telecommunications services from a single provider are severed, therefore, increasing network reliability through the availability of multiple providers is essential and beneficial to the public. Because there is inherent risk associated with relying exclusively on a sole provider for all long distance, Special Access and/or Private Line Services, according to Jones, it is not adequate or reasonable for large telecommunications dependent customers to rely on a sole source for any of these services. The presence of multiple providers in a market place is therefore essential, according to Jones. Further, the redundancy to be provided by SCANA eliminates the possibility that wasteful duplication of services would result from the granting of the Certificate sought

in this Docket.

FINDINGS OF FACT

1. SCANA Communications, Inc. is a wholly-owned subsidiary of SCANA Corporation. SCANA is authorized to transact business in the State of South Carolina by the Secretary of State.

2. SCANA operates facility-based interexchange telecommunications services as a carrier's carrier.

3. SCANA has the experience, capability, and financial resources to provide services as described in its Application both as a carrier's carrier and as a provider of Special Access and Private Line Services.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to SCANA to provide intraLATA and interLATA channel service between two points within the State as a carrier's carrier in South Carolina. This Commission defines a carrier's carrier as providing non-switched point-to-point service for authorized telecommunications carriers to and from points of presence (POPs).

2. We believe that the guidelines heretofore adopted by this Commission for Interstate Fibernet JV in Order No. 95-25, dated January 24, 1995 in Docket No. 94-424-C apply in the present case. We believe, as we did in that case, that it is in the public interest that SCANA be allowed to carry both interLATA and intraLATA traffic for all types of telecommunications carriers on

a carrier's carrier basis (i.e. non-switched point-to-point telecommunications service) so long as the telecommunications carrier has the authority to carry such traffic. Further, telecommunications carriers having originating and terminating interLATA traffic may transport such traffic between an interLATA carrier's POP, and a telecommunications carrier's carrier switch by the appropriate means of their choice.

3. When intraLATA traffic is transported between two connecting telecommunications carriers, the point of connection should be negotiated in good faith and agreed to by the carriers. However, if no agreement is reached, either carrier may seek a final determination from the Commission.

4. The Commission agrees with and adopts the Stipulation between SCANA and the Consumer Advocate, and it is herein incorporated by reference. The Stipulation is attached hereto as Appendix A.

5. With regard to SCANA's request to provide Private Line and Special Access Services, we agree with the Company's witnesses that the granting of this portion of its authority would provide route diversity, network reliability, enhance security redundancy, price competition, and expanded choice between services and providers. We also note that Kevin Hall, Esquire, elected, pursuant to the new amendments to S. C. Code Ann. §58-9-280(B) to comply with the certification requirements in effect on March 25, 1996, a date just subsequent to the filing of its Application. We therefore hold that the Commission must examine 1) the prevention

of wasteful duplication of facilities and services; and 2) the protection of the consuming public from receiving inadequate service. (See Order on American Communications Service, Inc., Order No. 95-1459 in Docket No. 94-712-C, dated August 31, 1995.) We hold that the testimony presented in this case shows that no wasteful duplication of facilities and services would result from the granting of this Certificate. Further, the consuming public would not only be protected from receiving inadequate service, but would have the opportunity for reasonable additional service that it would not have, should the Certificate at issue not be granted. Clearly the criteria listed in the ACSI Order, as stated above are satisfied.

We note, however, in S. C. Code Ann. §58-9-280(B), that even though a carrier such as SCANA may elect to comply with the certification requirements in effect on March 25, 1996, if its Application is filed prior to that date, such carrier shall still comply with Subsection (B)(4), which states that an Applicant, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone services at affordable rates. We note that this Commission has yet to speak on this subject. However, when it does, this Applicant will be required to comply with any Commission standards that may be set out pursuant to the statute as quoted above.

IT IS THEREFORE ORDERED THAT:

1. SCANA is hereby granted a Certificate of Public Convenience and Necessity so as to allow it to provide intrastate

non-switched point-to-point services to all telecommunications carriers certified by the Commission as provided for herein in South Carolina, and to allow it to provide Private Line and Special Access Services to customers in territories served by BellSouth.

2. SCANA may file sealed contracts with the Commission for sales in the provision of these services.

3. Telecommunications carriers having originating and terminating interLATA traffic may transport such traffic between an interLATA carrier's POP, and their switch by the appropriate means of their choice.

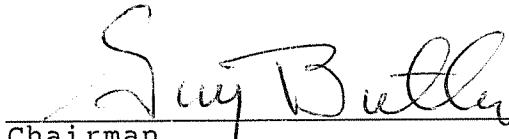
4. That when intraLATA traffic is transported between two connecting telecommunications carriers, the point of connection must be negotiated in good faith, and agreed to by the carriers; however, if no agreement is reached, either carrier may seek a final determination from the Commission.

5. The Stipulation between the Company and the Consumer Advocate is hereby approved and adopted.

6. SCANA shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Appendix B.

7. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

DOCKET NO. 96-089-C - ORDER NO. 96-451
JULY 5, 1996
APPENDIX B

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.

* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

**BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 96-089-C**

In Re:)	
)	STIPULATION OF APPLICANT
Application of MPX Systems, Inc.)	SCANA COMMUNICATIONS, INC. (f/k/a
for a Certificate of Public)	MPX SYSTEMS, INC.) AND THE CONSUMER
Convenience and Necessity to)	ADVOCATE OF THE STATE OF SOUTH
Provide Intrastate Telecommunications)	CAROLINA
Services as a Carrier's Carrier, Private)	
Line and Special Access Services within)	
the State of South Carolina)	

This Stipulation is made and entered into by and between Applicant SCANA Communications, Inc. ("SCI"), a wholly owned subsidiary of SCANA Corporation ("SCANA") and Intervenor, the Consumer Advocate of the State of South Carolina ("Consumer Advocate"), who state and agree as follows:

WHEREAS, on or about March 22, 1996, SCI (f/k/a MPX Systems, Inc.) filed with the South Carolina Public Service Commission ("Commission") its Application requesting that it be granted a Certificate of Public Convenience and Necessity to provide intrastate telecommunications services as a carrier's carrier, as well as private line and special access services;

WHEREAS, the Consumer Advocate filed its Petition to Intervene herein on or about May 15, 1996; and

WHEREAS, the parties, having discussed the proposed Application and their respective concerns, desire to enter into an agreement whereby SCI will define its accounting rules and the Consumer Advocate, in reliance upon such representations, will limit its participation in the above-referenced docket accordingly.

NOW, THEREFORE, in consideration of the benefits flowing to the parties hereto and

the mutual covenants and promises hereinafter set forth, the parties do hereby mutually stipulate and agree as follows:

1. SCI's operations in South Carolina that are subject to the jurisdiction of the Commission will be limited to providing intrastate telecommunications services as carrier's carrier, as well as intrastate private line and special access services as is more fully described in SCI's Application.

2. SCI agrees that it will comply with all requirements set forth by this Commission pertaining to affiliated cost allocation and transaction rules and procedures applicable to SCI as an affiliate of a regulated electric utility and any applicable requirements set forth by the Federal Communications Commission and that it will assure that SCANA's other regulated subsidiaries do not unlawfully subsidize the telecommunications operations of SCI. SCI also agrees that it will comply with the requirements of Order No. 92-931 in Docket No. 89-230-E/G pertaining to affiliated transactions.

3. SCI agrees that it will maintain separate books and records which identify transactions between affiliates as required by Order No. 92-931. SCI further agrees to provide information to the Commission on an annual basis which sets forth the ratios used to allocate corporate administrative and general costs to SCI as well as other subsidiaries.

4. Upon the execution of this Stipulation, the Consumer Advocate shall advise this Commission that its concerns regarding the above-captioned matter have been addressed and that its further participation in the above-captioned docket shall be limited to submitting this Stipulation into the record of this proceeding.

5. This Stipulation shall not have precedential value for other proceedings and has been entered into solely for the purpose of resolving the issues identified as currently pending in the above-captioned docket.

6. The terms and conditions set forth in this Stipulation were arrived at through compromise and negotiation. The parties reserve the right to advocate their original positions on each of the issues currently pending in the above captioned docket if this Stipulation is not approved in its entirety.

7. The parties agree that the aforesaid terms may be included in any Commission Order entered herein, and that this Stipulation may be made an Exhibit to this proceeding.

SO AGREED this 27th day of June, 1996.

SCANA COMMUNICATIONS, INC.
(f/k/a MPX Systems, Inc.)

By: 

Kevin A. Hall

Its: Senior Attorney

CONSUMER ADVOCATE FOR THE
STATE OF SOUTH CAROLINA

By: 

Elliott F. Elam, Jr.

Its: Senior Attorney